



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/407,053	09/27/99	PALINKAS	R D-6394

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PM82/0726

EXAMINER

PEZZLO, B

ART UNIT

PAPER NUMBER

3613

DATE MAILED: 07/26/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/407,053

Applicant(s)

PALINKAS, RICHARD L.

Examiner

Benjamin A Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                            | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the meaning of "special" in line 10 is unclear.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlston.

Carlston discloses a side bearing unit for a railroad car including a first housing 56 having an exterior surface and defining a bore extending at least part way through the first housing, a first load bearing member coupled to the housing (col. 3 lines 32-34) and defining an outwardly facing first abutment surface and a second housing 32 defining a bore of a shape similar to the exterior surface of the first housing and adapted to slidably receive the first housing therein, a second bearing member 42 coupled to the second housing and defining an outwardly facing second abutment surface opposite to the first abutment surface (col. 3 lines 3-6 and col. 4 lines 34-36), and a biasing means 36 being of a "special" toroidal shape ("special" in the sense

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that while having an external toroidal profile, the biasing means is nonetheless hollow and thus, "special") for urging the first and second load bearing members away from one another in response to a load being imposed upon at least one of the first and second abutment surfaces.

Re claim 2, see Carlston: spring 38 in Fig. 2.

Re claim 3, see Carlston: Fig. 3.

Re claims 4-6, see Carlston: col. 2 lines 19-26.

Re claim 7, see Carlston: Fig. 7.

Re claim 8, see Carlston: Fig. 2.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlston (US 4998997) in view of Magowan (US136079).

Please note that the present rejection is provided to address potential alternative meanings of the term "special".

Carlston discloses a side bearing unit for a railroad car including a first housing 56 having an exterior surface and defining a bore extending at least part way through the first

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housing, a first load bearing member coupled to the housing (col. 3 lines 32-34) and defining an outwardly facing first abutment surface and a second housing 32 defining a bore of a shape similar to the exterior surface of the first housing and adapted to slidably receive the first housing therein, a second bearing member 42 coupled to the second housing and defining an outwardly facing second abutment surface opposite to the first abutment surface (col. 3 lines 3-6 and col. 4 lines 34-36), and a biasing means 36 having a toroidal shape for urging the first and second load bearing members away from one another in response to a load being imposed upon at least one of the first and second abutment surfaces.

Carlston does not disclose the toroidal biasing means being "special". Assuming "special" is intended to mean a solid toroid, Magowan discloses such a toroid. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a "special" toroid according to the teachings of Magowan in an assembly according to Carlston in order to provide a biasing means with a high degree of elasticity but also with great economy and cheapness (Magowan: col. 1 line 9-13).

Re claim 2, see Magowan: spring B in Figs. 1-2.

Re claim 3, see Carlston: Fig. 3.

Re claims 4-6, see Carlston: col. 2 lines 19-26.

Re claim 7, see Magowan: Fig. 1.

Re claim 8, see Carlston: Fig. 2.

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7. Claims 16 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlston in view of Platkiewicz (US 4465799) and further in view of Curtis (US 5036774) and Spencer et al. (US 5086707).

Carlston discloses a side bearing unit for a railroad car including a first housing 56 having an exterior surface and defining a bore extending at least part way through the first housing, a first load bearing member coupled to the housing (col. 3 lines 32-34) and defining an outwardly facing first abutment surface and a second housing 32 defining a bore of a shape similar to the exterior surface of the first housing and adapted to slidably receive the first housing therein, a second bearing member 42 coupled to the second housing and defining an outwardly facing second abutment surface opposite to the first abutment surface (col. 3 lines 3-6 and col. 4 lines 34-36), and a biasing means 36 being of a special toroidal shape (special in the sense that while having an external toroidal profile, the biasing means is nonetheless hollow and thus, special) for urging the first and second load bearing members away from one another in response to a load being imposed upon at least one of the first and second abutment surfaces.

Carlston does not disclose at least one slip lining positioned between the first housing exterior surface and a bore wall defining the second housing bore. Platkiewicz et al. disclose a low friction slide lining composition and a method of producing the slide lining composition. Curtis et al. disclose a long travel side bearing for an articulated railroad car, see Fig. 6, including spacers 64, 65 and Spencer et al. disclose self adjusting constant contact side bearings for railcars, see Fig. 4, including shims 100, 102. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a slip lining as taught by Platkiewicz et al. between the first housing and a bore wall defining the second housing bore in

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order to "improve utilization of slide surfaces" (Platkiewicz et al.: col. 1 lines 59-60). Curtis et al. and Spencer et al. provide further motivation to combine Carlston and Platkiewicz et al. Specifically, Curtis et al. teach that it is desirable to "permit sliding of the top cap member around the sleeve member" (Curtis et al.: col. 4 lines 66-68), and Spencer et al. teach that it is desirable to "automatically adjust and compensate for wear between cap and base parts" (Spencer et al.: col. 1 lines 57-58).

Re claim 10-12, see generally Platkiewicz et al. col. 1 lines 19-23.

Re claims 13-14, see Platkiewicz et al. col. 3 line 40.

8. Claims 16 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlston (US 4998997) in view of Magowan (US136079) in view of Platkiewicz (US 4465799) and further in view of Curtis (US 5036774) and Spencer et al. (US 5086707).

Carlston discloses a side bearing unit for a railroad car including a first housing 56 having an exterior surface and defining a bore extending at least part way through the first housing, a first load bearing member coupled to the housing (col. 3 lines 32-34) and defining an outwardly facing first abutment surface and a second housing 32 defining a bore of a shape similar to the exterior surface of the first housing and adapted to slidably receive the first housing therein, a second bearing member 42 coupled to the second housing and defining an outwardly facing second abutment surface opposite to the first abutment surface (col. 3 lines 3-6 and col. 4 lines 34-36), and a biasing means 36 having a toroidal shape for urging the first and second load bearing members away from one another in response to a load being imposed upon at least one of the first and second abutment surfaces.

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Carlston does not disclose the toroidal biasing means being "special". Assuming special is intended to mean a solid toroid, Magowan discloses such a toroid. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a special toroid according to the teachings of Magowan in an assembly according to Carlston in order to provide a biasing means with a high degree of elasticity but also with great economy and cheapness (Magowan: col. 1 line 9-13).

Carlston in view of Magowan does not disclose at least one slip lining positioned between the first housing exterior surface and a bore wall defining the second housing bore. Platkiewicz et al. disclose a low friction slide lining composition and a method of producing the slide lining composition. Curtis et al. disclose a long travel side bearing for an articulated railroad car, see Fig. 6, including spacers 64, 65 and Spencer et al. disclose self adjusting constant contact side bearings for railcars, see Fig. 4, including shims 100, 102. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a slip lining as taught by Platkiewicz et al. between the first housing and a bore wall defining the second housing bore in order to "improve utilization of slide surfaces" (Platkiewicz et al.: col. 1 lines 59-60). Curtis et al. and Spencer et al. provide further motivation to combine Carlston and Platkiewicz et al. Specifically, Curtis et al. teach that it is desirous to "permit sliding of the top cap member around the sleeve member" (Curtis et al.: col. 4 lines 66-68), and Spencer et al. teach that it is desirous to "automatically adjust and compensate for wear between cap and base parts" (Spencer et al.: col. 1 lines 57-58).

Re claim 10-12, see generally Platkiewicz et al. col. 1 lines 19-23.

Re claims 13-14, see Platkiwicz et al. col. 3 line 40.



*Response to Arguments*

9. Applicant's arguments filed June 1, 2001 have been fully considered but they are not persuasive. Applicant preemptively argues against the combination of Magowan and Carlston. Specifically, Applicant argues that no motivation exists to disassociate the toroidal shaped ring from the central cylindrical core. However, such a disassociation is unnecessary since the "core" 50 against which the toroidally shaped ring 38 of Carlston rests is also cylindrical.

*Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

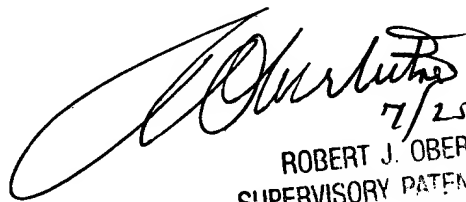
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Oberleitner can be reached on (703) 308-2569. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP  
July 24, 2001

  
7/25/01  
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SUPERVISORY PATENT EXAMINER  
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